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W.P.Nos.29443 to 29445 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.29443 to 29445 of 2022

W.P.No.29443 of 2022

Dr. Yalaguraswami B.Kolkar

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Department,
Secretariat, Chennai – 600 009.

2.Director of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai - 600 010.

3.Chengalpattu Medical College,
Rep. by its Dean,
VOC Nagar, Chengalpattu,
Tamil Nadu - 603 001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to return the original certificates of the petitioner collected by the 3rd respondent at the time of his admission.



W.P.Nos.29443 to 29445 of 2022

W.P.No.29443 of 2022

Dr.Thangjangul Khongsai

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Department,
Secretariat, Chennai – 600 009.

2.Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai - 600 010.

3.Madurai Medical College,
Rep. by its Dean,
Panagal Road, Alwarpuram,
Madurai - 625 050.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to return the original certificates of the petitioner collected by the 3rd respondent at the time of his admission.

W.P.No.29445 of 2022

1.Dr.Shwenlo Kemp
2.Dr.Lham Dorjee

...Petitioners

-Vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Department,
Secretariat, Chennai – 600 009.



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2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai - 600 010.

3. Stanley Medical College,
Rep. by its Dean,
No.1, Old Jail Road,
Chennai - 600 001.

4. Madurai Medical College,
Rep. by its Dean,
Panagal Road, Alwarpuram,
Madurai - 625 050.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to return the original certificates of the petitioners collected by the 3rd and 4th respondents at the time of his admission.

(in all WPs)

For Petitioners : Mr.E.Manoharan

For Respondents : Mr.U.M.Ravichandran,
Special Government Pleader

COMMON ORDER

Since the issues raised in these writ petitions are one and the same, with the consent of learned counsel appearing for both sides, all these writ petitions were heard together and are disposed of by this common order.

2. In W.P.No.29444 of 2022, the petitioner had completed the PG



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degree course in Medicine in May, 2021 and in W.P.No.29445 of 2022, both the petitioners have completed the PG degree course in Medicine in May, 2021, in the respective respondent Institutions.

3. At the time of joining the PG degree course, they had given the original certificates of PG degree and other related certificates along with a bond stating that they would serve the Government of Tamil Nadu for 2 years, after successfully completing the PG degree course.

4. After completion of the PG degree course in May, 2021, no such utilization was done, as no posting orders have been given by the respondents to the petitioners, except the petitioners in W.P.No.29445 of 2022, where the Covid Duty was allotted to the petitioners, which they have undertaken.

5. Likewise, the petitioner in W.P.No.29443 of 2022 had completed the PG degree course in Medicine in May, 2021. According to the petitioner, the posting order for duty during the bond period, though was passed by the respondents, has not reached the petitioner, because of the



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wrong address or change in address, but anyhow, that was given only in December, 2020, i.e., after nearly about 1½ years. Therefore, only a period of 6 months is remaining as per the bond and that can be waived, insofar as the petitioner in W.P.No.29443 of 2022 is concerned.

6. Therefore, the original certificates given by the petitioners in all these writ petitions, at the time of joining the PG degree course, may be directed to be returned to the petitioners, in order to pursue their further study or for joining any other hospital. Only for the aforesaid purpose, these writ petitions have been moved.

7. Reiterating the aforestated, Mr.E.Manoharan, learned counsel for the petitioners seeks indulgence of this Court.

8. However, Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents would submit that insofar as the bond period is concerned, the petitioners are liable to work for 2 years in the respondent Government Hospital and till date, the petitioners have not been utilized by the respondents by giving them any bond duty.



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are concerned, even though the bond duty has not been offered to them, still a period of 6 months is available with the respondents to utilize the services of the respective petitioners. Therefore, at this juncture, if the petitioners are willing to take back the certificates, they may be directed to give an undertaking before the respondent hospital that they would work for the remaining bond period in case of any emergency, if they are called for.

10. Like that, insofar as the petitioner in W.P.No.29443 of 2022 is concerned, despite the posting order was served to the petitioner in December, 2020 and since the same has not been utilized, the petitioner in that writ petition also may not be entitled to take back the certificates from the respondent, without giving an undertaking that he would be ready and willing to work for the remaining bond period in any of the respondent institution.

11. I have considered the rival submissions made by the learned



counsel on either side and perused the materials placed before this Court.

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12. Insofar as the issue raised in these writ petitions are concerned, it has been considered and decided by this Court in a number of cases and I had an occasion to consider the said issue in the case of ***P.Ruba Devi Vs. The State of Tamil Nadu passed in W.P.No.26461 of 2022, etc. batch, dated 17.10.2022***, where I have passed the following orders:-

"23. The Division Bench in fact has held that the bond period is coterminous with the candidates concerned, therefore once the bond period is over i.e. the two years as the case may be if it is over within which if no offer of employment is given to whatever reason by the respondents, then the candidates cannot be clutched for any further period and they are entitled to get back their certificates and they are free to go for any other organisation to join or to go for any higher studies. Suppose in some cases if the bond period is not completed, even though the petitioners are ready and willing to work since there has been no offer given as of now by the respondents, the petitioners cannot be clutched and they cannot be kept idle without joining in any other course or in any other job opportunity and therefore, the Government i.e. the respondents themselves have



come forward to make the offer that within the bond period if they want to take back the certificates and if they come forward to give an undertaking that whenever they are called for an emergency they would come back and serve for the bond period their certificates can be given back. The petitioners also since have agreed upon to give such an undertaking, this Court having taken note of all these aspects is inclined to dispose of these writ petitions with the following orders:

(i) That there shall be a direction to the respondents in all these writ petitions to consider the request made by each of the petitioners with regard to the returning back of the original certificates which are held by the respondents as they have been given by the respective petitioners at the time they joined in the respective P.G. Degree courses or P.G. Diploma courses and return back those certificates, in respect of the petitioners who completed the two years bond period as of now, forthwith i.e. within a period of two weeks from the date of receipt of a copy of this order.

(ii) Insofar as W.P.No.27467 of 2022 is concerned, since for a period of one year the petitioner had been in maternity leave and despite the offer made in this regard by the respondents, the



petitioner could not serve because of the maternity leave and now the petitioner has come forward to give an undertaking that maternity leave period of one year taken by the petitioner would be compensated by serving the respondent institution if such offer is given in future in case of emergency. Therefore, with that condition to give undertaking the petitioner is entitled to get back the certificates.

(iii) Insofar as the W.P.No.27248 & 27249 of 2022 are concerned, since the bond period are over, within the bond period only covid-19 duty were offered to them and no regular duty has been given or posting or appointments are given, these petitioners in the said two writ petitions are free to get their certificates and the certificates belong to them shall be returned back by the respondents without any further conditions.

(iv) Insofar as all other writ petitions are concerned, since the bond period having not over as they have completed the P.G. Degree Courses only in 2022, after getting written undertaking to that effect as desired by the respondents from each of the petitioners that they would be ready to serve to the respondents/institutions/State Government when they are called for due to emergency in future and with these undertaking obtained from these petitioners



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individually, the respondents shall release the certificates belongs to these petitioners. The needful shall be undertaken by the respondents after getting these undertaking from the petitioners within one week thereafter.

24. With these directions, all these Writ Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

13. In view of the above, this Court feels that these petitioners are entitled to get back the certificates, but at the same time, they have to give an undertaking affidavit to the respondent stating that, for the remaining bond period, if the services of the petitioners are required, they would be ready and willing to work for the Government institution/ hospital, in case of any emergency.

14. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following orders:-

(i) Insofar as the petitioners in W.P.Nos.29444 and 29445 of 2022 are concerned, since the bond period is completed as of now, there shall be a direction to the respondents to consider the request made by each of



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the petitioners with regard to the returning back of the original certificates which are held by the respondents as they have been given by the respective petitioners at the time they joined in the respective P.G. Degree courses and return back those certificates, within a period of 1 week from the date of receipt of a copy of this order.

(ii) Insofar as the petitioner in W.P.No.29443 of 2022 is concerned, since the posting order was issued to the wrong address by the respondents, the respondent was unable to utilize the services of the petitioner and as per the bond, a period of 6 months is remaining. Therefore, in order to get back the original certificates, the petitioner shall give an undertaking affidavit to the effect that he would be ready and willing to serve the Government institution/hospital, if he is called for in future, in case of any emergency. The needful in this regard shall be undertaken by the respondent, within a period of one week from the date of receipt of the undertaking to be given by the petitioner.

15. With these directions, all these Writ Petitions are disposed of.

No costs.

07.11.2022



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Index:Yes/No

Speaking order/Non-speaking order

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R.SURESH KUMAR,J.

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